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Complaint for Injunction and Other Relief

IN THE CIRCUIT COURT
OF THE ELEVENTH JUDICIAL CIRCUIT OF FLORIDA
IN AND FOR DADE COUNTY
IN CHANCERY

No. 66C-5523 (Thomas E. Lee)

ARIADNE SHIPPING COMPANY, LIMITED, a Liberian corporation,
and EVANGELINE STEAMSHIP COMPANY, S.A., a
Panamanian corporation,

Plaintiffs,

vs.

INTERNATIONAL LONGSHOREMEN'S ASSOCIATION,
LOCAL 1416, AFL-CIO,

Defendant.

Plaintiffs, ARIADNE SHIPPING COMPANY LIMITED, a Liberian corporation, and EVANGELINE STEAMSHIP COMPANY, S.A., a Panamanian corporation, by their undersigned attorneys, bring this complaint against INTERNATIONAL LONGSHOREMEN'S ASSOCIATION, LOCAL 1416, AFL-CIO, and allege:

1.

Plaintiffs are engaged in the business of owning and operating cruise ships in the transportation of persons from Port Everglades in Broward County, Florida, and from the municipal docks in Miami, Dade County, Florida, to various vacation points of interest on the islands west and southwest of Florida known as the West Indies and Caribbean areas. The ships involved are the SS ARIADNE which has a

Complaint for Injunction and Other Relief

capacity of 327 passengers and is making two trips weekly out of Port Everglades, and the SS BAHAMA STAR which has a capacity of 700 passengers and is making two trips weekly out of the Port of Miami.

2.

The defendant is a labor organization, an unincorporated association composed of persons who perform the labor of loading and unloading ships at Miami, and defendant maintains an office at 816 N.W. Second Avenue, in Miami, Florida.

3.

Neither the defendant nor any of its members is employed to perform any work in connection with the operation of the cruise ships which are owned and operated by the plaintiffs, respectively, and defendant does not represent any of the employees who operate the ships. Furthermore, neither the defendant nor its members holds themselves out for any employment in the operation of these ships or either of them.

4.

Nevertheless and notwithstanding the complete lack of any privity between the defendant and the operation of the cruise ships on May 23, 1966, the defendant established a picket line on the public docks adjacent to the berths where the ships operated by the plaintiffs were being unloaded and loaded. One picket was placed on the Port Everglades dock opposite the SS ARIADNE and one was on the Miami docks opposite the SS BAHAMA STAR. Identical signs were carried by the pickets at Port Everglades and at the Miami docks except with the respective ship's names on the top, as shown below:

*Complaint for Injunction and Other Relief***ARIADNE
REFUSE****To Maintain Adequate
Safety Conditions****FOR****PASSENGERS &
EMPLOYEES****International
Longshoremen's
Association****Local 1416 Miami, Fla.****BAHAMA STAR
REFUSE****To Maintain Adequate
Safety Conditions****FOR****PASSENGERS &
EMPLOYEES****International
Longshoremen's
Association****Local 1416 Miami, Fla.**

While picketing alongside the ships the pickets walked among the embarking or disembarking passengers so that their presence was conspicuous and noticed by the passengers. Defendant also passed out handbills to the Miami passengers implying that the vessels were unsafe (see Exhibit A, incorporated herein).

5.

The signs carried by the defendant's pickets contain statements that are false, untrue and libelous.

6.

There is no labor dispute between plaintiffs and defendant. Plaintiffs do not use the services of defendants at the Port of Miami or at Port Everglades. Furthermore, there is no labor dispute between plaintiffs and any of their respective employees, none of whom is represented by defendant. The aforesaid foreign corporation plaintiffs operate, respectively, the foreign flag ships SS BAHAMA STAR and SS ARIADNE. The seamen on said ships are governed by Ship's Articles of Panama and Liberia, respectively.

Complaint for Injunction and Other Relief

7.

Plaintiffs allege that by reason of the facts set forth above defendant's picketing is unlawful and the publishing of the libelous statements on the signs carried by the pickets constitutes an unlawful and malicious interference with the business relationships of the plaintiff.

8.

The said unlawful actions of defendant are damaging plaintiffs' business and will have the natural effect of causing customers to turn away. Defendant is creating false impressions among the public that the plaintiffs operate unsafe vessels and otherwise interfering with the business of plaintiffs and their relationships with their passenger and employees. Such damages are irreparable and will continue unless defendant is enjoined. Plaintiff has no adequate remedy at law for the continuing damages inflicted by defendant as aforesaid.

WHEREFORE, plaintiffs pray that this Court find, order and decree:

1. That defendant, its officers, agents, allies and all others acting in concert or participation with it, be temporarily restrained from:

(a) Picketing or patrolling at or in the vicinity of the docks where the ships SS ARIADNE and SS BAHAMA STAR load and unload.

(b) Intimidating or interfering in any manner or by any means with any passengers, including patrol or patrols of plaintiffs' dock facilities either by picketing, handbilling or by any kind of statement, written or oral, which in any man-

Complaint for Injunction and Other Relief

ner or means seeks to induce any passenger or passengers, patron or patrons of plaintiffs to withhold his patronage or business.

2. That a hearing upon due notice be held to temporarily enjoin the activities set out in paragraph (1) above.

3. That upon final hearing said temporary injunction be made permanent.

4. That judgment be entered against defendant for such damages as the plaintiffs have suffered by reason of the said unlawful and malicious acts of defendant.

5. That the plaintiffs have such other and further relief as to the Court seems reasonable and just.

MILLER, SCHENERLEIN & BARE
100 Biscayne Boulevard North
Miami, Florida

By RICHARD M. LESLIE
Attorneys for Plaintiffs

SHUTTS & BOWEN
First National Bank Bldg.
Miami, Florida

STATE OF FLORIDA,
COUNTY OF DADE

Before me, the undersigned authority, personally appeared H. N. BOUREAU, who, being duly sworn, deposes and says that he has read the above and foregoing Complaint

Complaint for Injunction and Other Relief

and that the matters and things alleged therein are true to the best of his knowledge, information and belief.

Affiant, Counsel for Plaintiffs

Sworn to and subscribed before
me this day of May, 1966.

NOTARY PUBLIC, State of Florida
My commission expires:

Exhibit A**WARNING!**

IS YOUR CRUISE SHIP A FLOATING DEATH TRAP?

**CAN A SUB-STANDARD FOREIGN FLAG CRUISE SHIP
TURN YOUR HOLIDAY INTO A HOLOCAUST?**

You, I am sure, are aware of the old adage, that experience is the best teacher. Yet, thousands of unsuspecting Americans continue to place their lives in jeopardy every day on cruises aboard foreign flag floating fire-traps. The sinking of the Yarmouth Castle was an "experience" of which all Americans should take heed, as to the unsafe conditions existing today in foreign cruise ships. The Yarmouth Castle flew under a Panamanian flag and when it sank, 90 lives were lost.

What can passengers of these so-called "luxurious" cruise ships like the "Yarmouth Castle" do to protect themselves? The answer is—know your ship. All ships sailing out of U.S. ports are inspected by the U. S. Coast Guard. The U.S. Coast Guard can enforce U. S. Safety standards only on U. S. ships. Ships under foreign flags are subject to far less stringent regulations than are those under U. S. flags. There is a vast difference in the safety regulations which apply to ships of different countries—and the difference can be a matter of life or death. The strictest safety regulations of all are those of the United States. Yet, despite the fact that a majority of all the cruise ships that leave the ports of Miami and other United States ports, are American owned, they carry a foreign flag. Why is this? The answer is simple, in that in operating under a "flag of convenience" offered by small foreign countries such as

Exhibit A

Liberia and Panama, whose safety standards are minimal, cruise lines then can ignore construction standards, the equipment, the age limits, the regular inspection, overhaul requirements and other safety regulations which U. S. law sets for all our ships.

Every passenger who enters upon any cruise ship leaving out of the ports of Miami or any port in the United States, should be wary of this cruise ship if it flies a foreign flag, yet is under American or United States ownership. Check and see whether or not safety regulations are being observed by this foreign cruise ship.

The tragic disaster of the Yarmouth Castle revealed intolerable and shocking deficiencies in that vessel. There was no life boat drill; life belts were in short supply and not readily available; the lifeboat davits jammed due to poor maintenance; passengers were not alerted to the fire and a distress signal was never sent (there was no radio officer on duty at the time). That the toll was no higher was the result of fortunate circumstances—calm seas and the presence nearby of rescue vessels.

The occurrence of this disaster on the high seas, should surely be an experience. A lesson to all would-be passengers of such cruise ships, for this Miami-based foreign flag ship would not have been allowed out of the port of Miami if it had flown an American flag, and had therefore been subject to stringent U.S. Coast Guard safety standards and regulations.

Don't be fooled by the often repeated statements since the Yarmouth Castle disaster, that this was an unusual occurrence and cannot happen again. The history of cruise ship disasters is replete with examples just like the Yarmouth Castle disaster, that is, American-based and owned

Exhibit A

cruise ships operating under a foreign flag, going down in flames or colliding with other vessels, because of poor safety standards. Fires on foreign flag passenger ships have claimed 378 lives in the past five years. Yet unscrupulous ship operators are permitted to continue to induce the unwary public to book passage on a "junkyard flotilla" of ships no better than the Yarmouth Castle, which was a worn-out 38 year old former New England overnight boat.

"Protect yourself". The Coast Guard is nearly helpless, under present laws, to protect you from the hazards of traveling on this "junkyard flotilla" of ships. Check every cruise ship that you book passage on, that carries a foreign flag, to determine whether or not it conforms to the safety regulations established by the Coast Guard. Don't be lured by these Sunday advertisements, of a "luxurious cruise in the Caribbean", for this cruise on a sub-standard foreign flag ship may prove to be a death trap.

**Defendant's Special Motion to Dismiss
For Lack of Jurisdiction**

IN THE CIRCUIT COURT
OF THE ELEVENTH JUDICIAL CIRCUIT
IN AND FOR DADE COUNTY, FLORIDA

[Title Omitted in Printing.]

COMES NOW, the Defendant, INTERNATIONAL LONGSHOREMEN'S ASSOCIATION, LOCAL 1416, AFL-CIO, by and through their undersigned attorneys and files this their Special Motion to Dismiss and/or Quash the Complaint and says:

1. Defendant moves to dismiss and/or quash the Complaint and cause on the ground that this Court does not have jurisdiction over the subject matter of this suit.

2. That the Plaintiffs have charged the Defendant Union with engaging in activities which are either protected or prohibited by the National Labor Relations Act.

3. That the Plaintiffs are engaged in activities which affect interstate commerce and/or foreign commerce in sufficient quantities for the National Labor Relations Board to assume jurisdiction over this matter or in the alternative that the labor disputes involved herein affects interstate commerce and/or foreign commerce in sufficient quantities for the National Labor Relations Board to assume jurisdiction of the matters alleged in the Complaint.

4. That by virtue of the fact that Interstate Commerce and/or Foreign Commerce is involved or affected and that by virtue of the fact that the Plaintiffs have charged in their Complaint that the Union is engaged in an activity which is

*Defendant's Special Motion to Dismiss
For Lack of Jurisdiction*

either prohibited or protected by the National Labor Relations Act, sole jurisdiction of this matter is in the National Labor Relations Board, and that this Court may not enjoin such activity nor may any State Court invoke its injunctive process to prohibit such activity.

WHEREFORE, Defendant prays that this Court investigate this matter to determine whether interstate commerce or foreign commerce is involved or affected, and thereupon dismiss or quash the complaint.

KASTENBAUM, MAMBER, GOPMAN
EPSTEIN & MILES
Attorneys for Defendant

By Allan M. Elster
For the Firm

[Certificate of Service omitted in printing.]

Defendant's Motion to Dismiss and/or Quash

IN THE CIRCUIT COURT
OF THE ELEVENTH JUDICIAL CIRCUIT
IN AND FOR DADE COUNTY, FLORIDA

[Title Omitted in Printing.]

COMES NOW the Defendant, INTERNATIONAL LONGSHOREMEN'S ASSOCIATION, LOCAL 1416, AFL-CIO, by and through its undersigned attorneys and without waiving its Special Motion to Dismiss and/or Quash for Lack of Jurisdiction heretofore filed in this cause, files this, its Motion to Dismiss and says:

1. Defendant moves to dismiss the complaint and cause on the ground that the Plaintiffs have charged the Defendant Union with engaging in activities which are protected by the first, fifth, ninth, tenth and fifteenth amendment to the United States Constitution and by Section 13 of the Declaration of Rights of the Constitution of Florida.

WHEREFORE, Defendant prays that this Court dismiss or quash the complaint.

KASTENBAUM, MAMBER, GOPMAN,
EPSTEIN & MILES
Attorneys for Defendant

By Allan M. Elster
For the Firm

[Certificate of Service omitted in printing]

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Order

IN THE CIRCUIT COURT OF THE 11TH JUDICIAL CIRCUIT
IN AND FOR DADE COUNTY, FLORIDA
IN CHANCERY

Case No. 66C-5523 (LEE)

ARIADNE SHIPPING COMPANY, LIMITED, a Liberian
corporation, and EVANGELINE STEAMSHIP COMPANY, S.A.,
a Panamanian corporation,

Plaintiffs,

v.

INTERNATIONAL LONGSHOREMEN'S ASSOCIATION,
LOCAL 1416, AFL-CIO,

Defendant.

ORDER

This cause having come on for Hearing on the verified Complaint of the Plaintiffs, Ariadne Shipping Company Limited, a Liberian corporation, and Evangeline Steamship Company, S.A., a Panamanian corporation, and on the several Motions of the Defendant, International Longshoremen's Association, Local 1416, AFL-CIO, to Dismiss, the Court having heard testimony, argument of counsel for the respective parties, having examined the file and being fully advised in the premises, it is

ORDERED, ADJUDGED and DECREED that all the Defendant's Motions be and the same are hereby denied.

Order

Further ORDERED, ADJUDGED and DECREED that the National Labor Relations Board has no jurisdiction in this cause; that there is no labor dispute; and that this Court has jurisdiction in this cause.

Further ORDERED, ADJUDGED and DECREED that the Defendant's actions are in violation of Florida Law; that Plaintiffs are suffering, and will continue to suffer irreparable injury unless enjoined; it is therefore

ORDERED that pending final Hearing in this matter Defendant, its officers, agents, allies, confederates and attorneys are enjoined and restrained from:

- 1.—Picketing and patrolling, with signs and placards stating, alleging or inferring that Plaintiffs' vessels are unsafe;
- 2.—Distributing literature, handbills or leaflets stating, alleging or inferring that Plaintiffs' vessels are unsafe;
- 3.—Picketing or patrolling with signs or placards indicating or inferring that a labor dispute exists between Defendant and Plaintiffs, by any statement, legend or language alleging Plaintiffs pay their employees substandard wages;
- 4.—By any manner or by any means, including picketing or the distribution of handbills, inducing or attempting to induce customers and potential customers of Plaintiffs to cease doing business with Plaintiffs.

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Order

Further ORDERED, ADJUDGED and DECREED that the Plaintiffs post a Bond in the total amount of FIVE THOUSAND DOLLARS (\$5,000.00),

DONE and ORDERED in Chambers, in Miami, Dade County, Florida, this 26th day of May, 1966.

THOMAS E. LEE, JR.
JUDGE CIRCUIT COURT

Answer to Complaint for Injunctive Relief

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT
OF FLORIDA

IN AND FOR DADE COUNTY

[Title Omitted in Printing.]

COMES NOW, the Defendant, International Longshoremen's Association, Local 1416, AFL-CIO, by and through its undersigned attorneys, and files this, its Answer to Complaint for Injunctive Relief, without waiving its defense that this Court lacks jurisdiction over the subject matter of this suit, and says:

FIRST DEFENSE

That this Court lacks jurisdiction over the subject matter of this action by virtue of the fact that interstate and/or foreign commerce is involved or affected, and by virtue of the fact that the Plaintiffs have charged the Defendant Union with engaging in activities which are either protected or prohibited by the National Labor Relations Act, and that, therefore, sole jurisdiction of this matter is in the jurisdiction of the National Labor Relations Board, and that this Court may not enjoin the activities complained of in the Complaint.

SECOND DEFENSE

That the Plaintiffs have charged the Defendant Union with engaging in activities which are protected by the Free Speech provisions of the First, Fifth, Ninth, Tenth and Fifteenth Amendments to the United States Constitution and by Section 13 of the Declaration of Rights of the Constitution of the State of Florida, and that, therefore, due

Answer to Complaint for Injunctive Relief

to the fact that the activities charged to the Defendant Union are protected by the Free Speech provisions of the United States Constitution and by the Florida Constitution, as enumerated above, this Court may not enjoin said activities.

THIRD DEFENSE

That the Complaint fails to state a cause of action for which relief can be granted, in that the Complaint fails to allege that the activities charged to the Defendant Union were for unlawful purposes, and that the picketing was conducted in an illegal manner.

FOURTH DEFENSE

That the Plaintiff corporations who have instituted the instant suit in this Court are foreign corporations, i.e., a Liberian corporation, and a Panamanian corporation; that said corporations are not authorized to do business in the State of Florida, since they have not obtained a permit to transact business in this State pursuant to Florida Statute 613.01. The failure of these foreign corporations to obtain a permit to transact business in the State of Florida precludes these corporations from maintaining an action in a State Court of this State, pursuant to Florida Statute 613.04. Reference is made to Defendant's Exhibit A, attached hereto.

FIFTH DEFENSE

That this Court lacks venue over this cause insofar as it relates to the Plaintiff, Ariadne Shipping Company, Limited, a Liberian corporation, in that the activities charged by the said Plaintiff corporation in the Complaint against the Defendant Union, show that this Plaintiff corporation does business solely in Broward County, Florida, and that the picketing and handbilling activities complained of by

Answer to Complaint for Injunctive Relief

this Plaintiff corporation as allegedly conducted by the Defendant Union were conducted exclusively against the Plaintiff corporation in Broward County, Florida, and that, therefore, sole jurisdiction of this cause insofar as it relates to the activities of the Defendant Union against the Plaintiff corporation, Ariadne Shipping Company, Limited, a Liberian corporation, lies in Broward County, Florida.

SIXTH DEFENSE

1. Defendant is without knowledge as to the allegations in Paragraph 1 of the Complaint, and, therefore, neither admits nor denies said allegation, and demands strict proof thereof.

2. Defendant admits Paragraph 2 of the Complaint, insofar as it clearly states that the Defendant Union is a labor organization, an unincorporated association; that Defendant Union maintains an office at 816 Northwest 2nd Avenue, Miami, Florida, and that jurisdiction of this Defendant Union encompasses the loading and unloading of ships at Miami, Florida. Defendant denies all other allegations of such Paragraph 2, which either by inference or by allegation, allege that the jurisdiction of the Defendant Union is limited to the labor of loading and unloading ships at Miami, Florida.

3. Defendant denies the allegations of Paragraph 3 in the Complaint.

4. Defendant admits that it engaged in picketing and handbilling activities on the dates and at the premises alleged in Paragraph 4 of said Complaint, and admits that the legend on the picket signs as portrayed in Paragraph 4 of said Complaint is a correct portrayal of one of the

Answer to Complaint for Injunctive Relief

legends utilized by the Defendant Union on its picket signs. Defendant denies all other allegations of said Paragraph 4.

5. Defendant denies Paragraphs 5, 6, 7 and 8 of the Complaint.

SEVENTH DEFENSE

As and for an additional affirmative defense, Defendant alleges that a labor dispute existed between the Labor Union and the Plaintiff Corporations, and that this labor dispute is evidenced not only by the legend on the picket signs, as alleged in the Complaint, but is further evidenced by an additional legend utilized by the Defendant Union, said legend not alleged in the Complaint, and said legend stating that the Plaintiff Corporations maintain sub-standard wages and working conditions lower than those established in the area by the Defendant Union.

EIGHTH DEFENSE

As and for an additional affirmative defense, Defendant alleges that the injunctive order entered by this Court on the 26th day of May, 1966, which enjoined the Defendant Union from engaging in certain activities, goes beyond the scope of the allegations of the Complaint, in that it enjoins the Defendant Union from engaging in activities which were not complained of in the Complaint.

KASTENBAUM, MAMBER, GOPMAN,
EPSTEIN & MILES

Attorneys for Defendant

By ALLAN M. ELSTER
For the Firm

[Certificate of Service omitted in printing.]

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Motion to Dissolve Temporary Injunction

IN THE CIRCUIT COURT
OF THE ELEVENTH JUDICIAL CIRCUIT
IN AND FOR DADE COUNTY, FLORIDA

[Title Omitted in Printing.]

COMES NOW, the Defendant, INTERNATIONAL LONGSHOREMEN'S ASSOCIATION, LOCAL 1416, AFL-CIO, by and through their undersigned attorneys, and files this, their Motion to Dissolve and/or Vacate Temporary Injunction, and as grounds for said Motion, says:

1. That on the 26th day of May, 1966, this Court entered a Temporary Injunction in the cause herein, enjoining the Defendant, INTERNATIONAL LONGSHOREMEN'S ASSOCIATION, LOCAL 1416, AFL-CIO, from engaging in picketing and handbilling directed against the Plaintiff corporation.

2. The evidence now established shows that this Court did not and does not have jurisdiction of the subject matter of this suit, and that sole jurisdiction of this matter is in the National Labor Relations Board, and that this Court may not enjoin such activities, nor invoke its injunctive processes to prohibit such activity.

3. That the evidence now established further shows that the Plaintiff corporations, who have instituted the instant suit in this Court, are foreign corporations, i.e., a Liberian corporation, and a Panamanian corporation, said corporations not authorized to do business in the State of Florida, as they have not obtained a permit to transact business in this State, as required under Chapter 613 of the Florida Statutes. Reference is made to the Certificates of the State

Motion to Dissolve Temporary Injunction

of Florida, Office of the Secretary of State, attached hereto, and made a part hereof, and labeled Defendants Exhibits "A" and "B"; that the failure of these corporations to obtain a permit to transact business in the State of Florida precludes these corporations from maintaining an action in a State Court of the State, pursuant to Florida Statute 613.04.

WHEREFORE, the premises considered, the Defendant Union prays that this Court dissolve and/or vacate the Temporary Injunction heretofore entered, and thereafter, dismiss or quash the Complaint, and dismiss this lawsuit.

KASTENBAUM, MAMBER, GOPMAN,
EPSTEIN & MILES

Attorneys for Defendant

By Allan M. Elster
For the Firm

[Certificate of Service omitted in printing.]

• • • • •

Order Amending Answer Nunc Pro Tunc

**IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT
OF FLORIDA**

IN AND FOR DADE COUNTY

IN CHANCERY

CASE No. 66C-5523 (LEE)

**ARIADNE SHIPPING COMPANY, LIMITED, a Liberian
corporation, and EVANGELINE STEAMSHIP Co., S.A.,
a Panamanian corporation,**

Plaintiffs,

—vs—

**INTERNATIONAL LONGSHOREMEN'S ASSOCIATION,
LOCAL 1416, AFL-CIO,**

Defendant.

ORDER AMENDING ANSWER NUNC PRO TUNC

THIS CAUSE, coming on to be heard, on the motion of Defendant, and Stipulation of respective counsel for Plaintiff and Defendant, for an Order permitting the Defendant to amend its answer, nunc pro tunc, to include therein the defense that the picketing engaged in by the Defendant was protected by the Fourteenth Amendment to the Constitution of the United States, and the Court, recognizing the Stipulation between counsel, and being otherwise fully advised in the premises, it is, upon consideration,

**ORDERED, ADJUDGED AND DECREED, that the Defendant's
Answer to the Complaint is hereby amended, nunc pro**

Order Amending Answer Nunc Pro Tunc

tunc, to insert therein, in its Second Defense, the word Fourteenth, so that the third line of the said Defense shall read as follows:

" . . . provisions of the First, Fifth, Ninth, Tenth, Fourteenth and Fifteenth Amendments . . . "

DONE AND ORDERED in Chambers in the Dade County Courthouse, Miami, Florida, this 1 day of May, 1967.

THOMAS E. LEE, JR.
Judge, Circuit Court

• • • • •

Transcript of Hearing

(Before Florida Circuit Court, Dade County)

• • • • •

[73] Mr. Leslie:

• • • • •

[75] • • • One picket was placed on the Port Everglades dock opposite the S.S. Ariadne. One was placed on the Miami docks opposite the S.S. Bahama Star. Identical signs were carried by the pickets at Port Everglades and at the Miami docks except with the respective ship's name on the top.

**REFUSE TO MAINTAIN ADEQUATE SAFETY CONDITIONS
FOR PASSENGERS AND EMPLOYEES. INTERNATIONAL
LONGSHOREMEN'S ASSOCIATION, LOCAL 1416.**

These detriments certainly are false, untrue and libelous and misleading, and certainly are not a subject for this union.

In our memorandum in support of this motion, we call the Court's attention to what I think are the two closest cases in the State of Florida. Young Adults for Progressive Action versus B & B Cash Stores, 151 (So.2d) 877, and NAACP versus Webb City, **[76]** 152 (So.2d) 179.

The reason we think they are so significant is that they went in for temporary injunctive relief—remedy and other relief extremely early in these cases, making the same complaints we are making: the picketing was an interference with plaintiffs' lawful business.

Noting the distinction between picketing and protected free speech, the court affirmed injunctive relief.

Transcript of Hearing

There is no way of telling how many people did not sail on the S.S. Bahama Star and how many people did not sail on the S.S. Ariadne—The reason the court did grant injunctive relief in most of these cases is it said: "This was not interfering with free speech and they took extreme care to cite Supreme Court cases.

Consequently, I will not reiterate it, if the Court can find time to read our memo.

As to free speech, this is much further than free speech; and that is why I think it is significant where they quoted from the United States Supreme Court case, talking about the domain of liberty, and [77] saying:

"... but while picketing is a mode of communication, it is inseparably something more and different. Industrial picketing is more than free speech, since it involves patrol of a particular locality, and since the very presence of a picket line may induce action of one kind or another, quite irrespective of the nature of the ideas which are being disseminated ..."

That is the whole essence here, your Honor. It is one man walking up and down with a sign, but he is doing irreparable injury to the ships.

I believe we also cited in there the cases that say that this Court does have jurisdiction because that goes to two aspects: one, the Florida courts have done this in prior cases; and the United States Supreme Court has held this is not an area where you have a national labor relations court of dispute or a labor dispute. It is something completely different; and here again, I would like to reiterate that—

The Court: I read your memo.

Mr. Leslie: Thank you, your Honor.

And here again, besides, I think, our [78] contentions are significant in these cases.

Transcript of Hearing

The signs in Webb City were asking for Negroes to be employed in the store. Here they are asking for labor union people to be employed on a ship.

In other words, they are saying, "We are unhappy that you are not employing our people."

The Court: There is no labor dispute here, is there?

Mr. Leslie: None whatsoever.

The Court: As I understand, you say there is a labor dispute here.

Mr. Gopman: Yes, sir, there is.

The Court: How can there be a labor dispute?

Mr. Gopman: Picketing because of the substandard wages paid to the employees who do the loading and unloading of these vessels. They did not mention that in the lawsuit, but they picketed for that as well.

They would not conduct an election among the employees of the ship, but this does not mean we do not have the right to picket when they [79] use employees who do work on American soil and pay them substandard wages—to protest against that.

The Court: Go ahead; he says it is a labor dispute.

Mr. Muller: Your Honor, we saw at the time the Complaint was filed, the single sign saying: REFUSE TO MAINTAIN—failing to maintain safety standards. It had no other sign saying: substandard wages.

But, even assuming there was, the only interest we have and this Court should have is whether or not a labor dispute exists is with reference to the National Labor Relations Board's jurisdiction.

Now, in the Webb City case, and in the B & B Cash Stores, the pickets were complaining about working conditions—that of the employees of the store, failure to advance the employees or failure to do this.

Transcript of Hearing

Very clearly, had the National Labor Relations Board jurisdiction, it could very well have taken the dispute—

The Court: Let me interrupt you for a minute. I have a long-distance call.

(Short Recess)

Mr. Muller: While our allegations and, [80] I think, our proof will show that the signs presently being maintained were strictly that they fail to maintain safety standards.

I indicated to the Court this would not be in any way controlling. Our position is that the existence of a labor dispute or no labor dispute has only entered into these cases for the purpose of advancing the National Labor Relations Board's Federal jurisdiction in these cases. There is no Federal jurisdiction in this case.

The Court: By virtue of the fact it is a foreign flag vessel?

Mr. Muller: Right.

There is no National Labor Relations Board jurisdiction. That being the case, we have to fall back exclusively on Florida State law.

The signs are clear interference with our lawful business activity.

The cases we cited indicated that the end cannot justify the means.

The Court: The basis of your suit then is a tort action.

Mr. Muller: That is right.

[81] Mr. Gopman: Then, if the basis of his suit is a tort action, he does not have the right to come here and ask for an injunction. He should take it some place to seek a remedy.

Before we get into that, we have a motion to dismiss on the ground the same cases are before the Board. Motion to

Transcript of Hearing

dismiss on the grounds of enjoining of this picketing would violate the First, Fifth and Fourteenth Amendments to the Constitution; that is, free speech, purely.

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[82] Another motion to dismiss, your Honor, on the grounds that the Complaint totally fails to state a cause of action. There is not one case of injunctive relief against picketing; or one where the Court has failed to find that this was an illegal motive or illegal purpose in the picketing.

The picketing has to be carried on either in an illegal manner or illegal objective—

The Court: That is a question of fact.

Mr. Gopman: They have not alleged an illegal objective. They have not said this picketing is for any purpose. They have not said it is for the purpose of forcing anybody to hire anybody. They have not said it is for the purpose of forcing anybody to cease doing business with anybody. They are only saying they are losing business because of it.

In Webb City, the court found that the illegal objective was that the NAACP attempted to gain for Negroes employment rights. They said that was a social and not labor objective. The court specifically said that in one of the early portions of the case, that if it was a labor objective they would have no jurisdiction, but the court said it was a social objective. That is, a social objective they seek **[83]** and, therefore, they do have jurisdiction.

In this particular case, they have not set forth an illegal objective. They do not bring anybody in to testify about that. We have a witness who will testify.

As we say, there is nothing illegal at all about this—

The Court: Let us take his testimony, the testimony of this witness.

Thereupon—

John Sheehan—for Defendant—Direct

JOHN SHEEHAN, was called as a witness on behalf of the defendant and, having been duly sworn, was examined and testified as follows:

Direct Examination by Mr. Gopman:

Q. Please state your full name. A. My name is John Sheehan.

Q. And your address? A. I reside at 685 Northeast 135th Street, North Miami, Florida.

Q. With whom are you associated, with what organization? [84] A. I am the local business agent for the National Maritime Union of America.

Q. Mr. Sheehan, are you familiar with the two ships known as the Bahama Star and the Ariadne? A. I am.

Q. Have you been aboard those ships? A. I have.

Q. Tell me, if you can, the safety conditions you have found from your observations aboard those ships.

Mr. Leslie: Your Honor, we object to this testimony as to safety conditions aboard the ship. We are talking about the longshoremen. We are not talking about a seafarer's situation. This is not relevant, your Honor.

The Court: I will sustain the objection. The safety conditions aboard the ship have nothing to do with this.

Mr. Gopman: If you read the sign, your Honor, that is exactly what we are complaining about in the sign—the safety conditions are improper.

The Court: You have no labor union working for the ship.

Mr. Gopman: The fact we do not, is [85] immaterial.

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Transcript of Hearing

[86] Mr. Gopman: The issues are whether it is libelous or false.

Couldn't he testify as to what the conditions are? That is exactly what is said on the signs. They refused to maintain adequate safety conditions for passengers and employees.

The Court: I have sustained the objection.

I do not think it would make any difference if they agreed, if counsel for plaintiffs agreed that they had substandard safety conditions; and I think the Court could probably take judicial notice of that—I am not going to do so at this point—but these foreign flag vessels do have substandard safety conditions as compared with American flag vessels.

Can you agree with that, counsel?

Mr. Muller: I wouldn't say substandard. I would use the term "different."

The Court: They have a lesser standard or less minimum standard required than do American ships.

I think that it goes without saying and [87] everyone knows that American flag vessels require, say, three watches on the ship whereas a foreign flag vessel would not do so.

Mr. Muller: We would agree, under the laws of Panama and Liberia, we are not required to do so; but we do meet every standard that the Coast Guard has asked us to meet here in Miami.

The Court: I understand that the Coast Guard has some authority on ships in port. They are not going to let a ship with dynamite come up here and park in our ports.

Mr. Leslie: They go even further than that. The only difference is that some of these ships are under the Grandfather Clause for—

Transcript of Hearing

The Court: I understand all that. What I am saying is: it really doesn't matter whether it is true or not. We have a sole concern here, which is whether this picketing is a tort under the theory advanced by the plaintiffs.

I have your motions under advisement, but the issue is as he says: it's a tort under the Florida laws that these ships are engaged in.

The cases cited, B & B Cash Stores and [88] Webb City have to do with tort types of picketing; and they advanced that this type of picketing is not against free speech as provided in the Constitution.

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[89] Mr. Muller: I have a whole series and I know counsel is familiar with them. That is, Fontainebleu versus Local 255—

The Court: What are we talking about?

Mr. Muller: Labor dispute injunction.

The Court: This Circuit Court has no jurisdiction over labor disputes?

Mr. Muller: In this regard, it does. The cases I am citing to the Court are series of hotel cases. This is prior to the time the Supreme Court of [90] Florida recognized the pre-emption doctrine. Since we do not have the issue of pre-emption in this case, the case is applicable. That is, what the Florida Supreme Court said about these disputes.

The Court: I understand what you are saying.

Mr. Muller: The only reversal was the pre-emption doctrine.

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Mr. Gopman: With respect to whether or not it is a labor dispute, we refer to Marine Cooks and Stew-

Transcript of Hearing

ards AFL versus Panama Steamship Company, 362 (U.S.) 365; whereas, the United States Supreme Court ruled:

“ . . . A Federal District Court erroneously determined that, notwithstanding the existence of a labor dispute within the meaning of the Anti-Injunctive provisions of the Norris-LaGuardia Act, it had jurisdiction [91] to enjoin a union from circling a vessel with a picket boat as it entered an American port, on the ground the union’s activities amounted to unlawful interference with foreign commerce and with the international economy of a vessel registered under the flag of a friendly foreign power.

“Such condition was not illegal under any statute or persuasive United States authority, nor was it concerned with the internal economy of the vessel since the union was interested in protecting the job opportunities of its own members and was not concerned with the interests of the foreign crews on the vessel . . . ”

The Court: When was this case?

Mr. Gopman: Here is a case where—By the way, The Court: Go ahead with the next one.

Mr. Gopman: Here is a case where—By the way, your Honor, that was—I gave you that.

Now we have the 1963 case. It is Marlindo Compania Naviera S/A versus Seafarer’s International Union of North American, Washington Superior Court case—we do not have a better citation than 47 Labor Cases, [92] Paragraph 18,252. That is the CCH case.

Mr. Muller: What is the year?

Transcript of Hearing

Mr. Gopman: 1963.

The Court: Who is the plaintiff in that case?

Mr. Gopman: The ship's company was the plaintiff.

The Court: American or foreign flag?

Mr. Gopman: Foreign flag.

The Court: What does it say?

Mr. Gopman: It says:

"Court of a state, in which a foreign flag ship manned by a foreign crew, was docked, had no jurisdiction over a suit by the foreign owner of the ship to the extent that the action sought injunctive relief against picketing of the ship by an American union which resulted in a refusal of another union to unload the docked vessel, since the conduct complained of was within the exclusive jurisdiction of the National Labor Relations Board.

"The union activity falling within the provisions of the National Labor Relations Act and the ship owner qualifying as a person under the definitions [93] of terms in that Act, the State court was pre-empted of jurisdiction."

Again, we have a case from Louisiana. South Georgia Company, Ltd. versus Marine Engineers Beneficial Association. This case—again, we have no better citation than the labor case citation—44 Labor Cases, Paragraph 17,481.

"The picketing of a foreign vessel to protest the loss of jobs by United States seamen with the utilization of that particular ship to transport grain purchased by a foreign government under the Agricultural Trade Development and Assistance Act is a labor dispute within the meaning of the National

Transcript of Hearing

Labor Relations Act. Therefore, the jurisdiction of a State court to enjoin the picketing is pre-empted by the National Labor Relations Board when it is not shown that upon application the National Labor Relations Board has declined jurisdiction."

They can do the same thing in this case, walk across the street and file there; and immediately get a decision from the Board as to whether or not they would take or decline jurisdiction. The Board will say: "We will" or "We will not take jurisdiction." And then [94] later on they will say, "We will" or "We will not enjoin this," but the first thing is whether they will take jurisdiction in this case.

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[96] . . .

Mr. Muller: There is no question whatsoever that the National Labor Relations Board does not have jurisdiction under these foreign flag cases.

To give the Court a little background—prior to 1963, there were attempts by the NMU Seafarers to organize these cruise ships up and down the East Coast.

A number of petitions for election were filed. During that time—some were won and some were not won. At that time, one of the foreign flag group of ships enjoined the Regional Director of the National Labor Relations Board in Washington and another in Florida—enjoined the employer in Washington, D. C. from proceeding with an election.

The United States Supreme Court took their cases and issued its decision in February, 1963, holding

Transcript of Hearing

clearly there is no jurisdiction in National Labor Relations Board in these foreign flag ships—or over the foreign flag ships.

Now, I couldn't catch all the names [97] that counsel read, but several of the cases, I know, have turned on the issue the employer goes into Federal court and is hit with the Norris-LaGuardia Act.

The court says, "We cannot give you an injunction on this," and they cite Norris-LaGuardia. And, I think, in one of the cases, counsel cited that.

But as far as this complaint going before the National Labor Relations Board, it is not so. I have a case here: Sociedad Nacional de Marineros versus McCulloch, 372 (U.S.) 10.

They decided in February, 1963, that it very clearly sets out there is no jurisdiction of the National Labor Relations Board—

The Court: Do any of these local Circuit Courts have jurisdiction over any of these cases?

Mr. Muller: This Court has jurisdiction.

Is that what you are asking about, Judge?

The Court: What one are you talking about? Are there any other cases presently pending in the Circuit Court on these matters?

Mr. Muller: Not that we know of.

The Court: Wasn't there another suit filed?

[98] Mr. Muller: Yes; but that was not against a foreign flag corporation. That was Eastern Steamship Lines. They are in Florida and they were enjoined against picketing against Eastern.

Mr. Gopman: Solely because that company did not operate the vessel.

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Transcript of Hearing

Mr. Muller: Judge, there is not the slightest question the National Labor Relations Board does not have jurisdiction in this case.

The Court: That is the problem I have. It is my understanding that the National Labor Relations Board does not and has not in several years taken jurisdiction in any case of a foreign flag vessel; and it is its policy it doesn't because of a Supreme Court decision and as a result of the United States' policy and the President and everybody else.

Mr. Muller: That is the rationale of this case.

Mr. Gopman: But that is limited to the activities that go on in the vessel outside of the American waters. For the elections by the employees of that vessel or the ship's sailors, it has nothing to do with the employees while they are on American [99] shores and only engaged in activities on American shores.

There are cases where they have taken jurisdiction—they can take jurisdiction.

The Court: Can you show me one since 1963?

Mr. Gopman: For a secondary boycott, sir.

The Court: Anything since 1963?

Mr. Gopman: Where the State courts have said they do not have jurisdiction—

Mr. Leslie: Do you want the 1963 case, your Honor? Here it is (handing).

The Court: Yes.

Mr. Gopman: The only one we have here is the case we cited of *Marlindo Compania Naviera S/A versus Seafarer's International*, which is a Washington Superior Court case. That was a 1963 case.

Transcript of Hearing

[100] Mr. Leslie: Headnote 1, your Honor. That points out the Labor Board does not have jurisdiction over foreign ships. It does not say only in elections.

[101] The Court: I understand.

Mr. Leslie: Your Honor, while we are looking, may we also add this?

This is so similar to the colored cases. For the simple reason you call yourself a labor union, this does not get you any closer. This is the same as they desired—they wanted to get their people in there instead of some of our people. It is the same way they argue. They wanted colored people instead of the employees already there.

Mr. Gopman: Your Honor, counsel is claiming we are picketing for the purpose of having our employees doing certain work. I do not know where he gets that idea. We haven't alleged it.

The Court: Why are you picketing?

Mr. Gopman: We are picketing to require the boat owner to pay to employees doing the work of loading and unloading the boat in the docks here—not outside the three-mile limit—wages we have gained for our employees. Nothing else. That is all. That is what we seek.

The Court: That is a different matter entirely.

You say you picketed them to educate the **[102]** public to the dangers, as to the rights of American citizens.

Mr. Gopman: That is one thing.

The Court: And that is the thing. We do not have a labor dispute. We get into that, because we have no labor dispute.

Transcript of Hearing

Then the labor union and the people picketing must be treated the same as other people under the same Constitutional Rights as other people.

Mr. Gopman: Correct.

The Court: Then we come under the tort of the State and we decide whether this is a malicious act, to harm the people.

Mr. Gopman: I do not agree with your Honor.

The Court: I say, if we do—

Mr. Gopman: That is right. The fact we did not mention they were picketing with another sign, that does not mean there was not another sign.

I would like to get it into the record in the event of an appeal. There was a labor dispute going on at that time. A labor dispute with respect to the loading and unloading of these vessels that we [103] were involved with; and I think the case they have cited—the McCulloch case—deals only with the activities of the seamen outside the boundaries of the United States.

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[105] The Court: The United States Supreme Court, I think, many times has defined picketing and free speech.

Mr. Gopman: Correct; and at any time they have done that, they have done so on a stated State policy, a statute or some law in some respect.

We do not have that here. In the Webb City case, they stated the policy. In this particular case there is no policy.

The Court: The Webb City case is a State of Florida case.

Transcript of Hearing

Mr. Gopman: Yes; but they stated the picketing cannot be carried on for a social purpose. They stated the reason for picketing is to have people—these employers hire these people. That was the illegal purpose.

The fact they were doing damage to the business was not the factor involved. That was incidental to it, but that was not the factor involved. [106] The factor involved was the illegal purpose for which they are carrying on the picketing.

The Court: The purpose was to hurt the business of these people.

Mr. Gopman: That was partially that. The purpose was to hurt the business, to get them acquiesce. What the NAACP's purpose was—the NAACP's purpose was to get them to hire Negroes.

The Court: What is your purpose here?

Mr. Gopman: To get them to stop the ships—

The Court: To hurt the business of these foreign flag companies until it hurts so bad that they are going to, for the purposes of loading and unloading, use your help? And if they sign a contract with you to use your help, then your problem is over, isn't it?

Mr. Gopman: No. We haven't been picketing for that at all.

We are picketing for two purposes: So that American people riding on their ships would not do it any more, they will ride on American ships, where American seamen operate them. We do not want the people to ride on those ships because of the lack of safety [107] conditions. If they brought their safety conditions to where everything was proper, we

Transcript of Hearing

wouldn't care if they did; but the fact that safety conditions go hand in hand with that—they are two separate things.

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Mr. Leslie: * * *

I think it is clear what the purpose is, and I think in a roundabout way, he showed what the purpose is.

He contended that he wanted to hurt the owner. And the owner can be hurt. And they are going to be hurt; but we cannot come in and calculate [108] how many thousands of dollars this has cost us.

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The Court: Why is it illegal? What is illegal about their actions as to be enjoined?

Mr. Leslie: It is the same as in the two Florida cases: B & B and the other case.

Mr. Muller: We have a lawful right to conduct our business in a lawful manner. We, under the [109] laws, may not have that lawful right interfered with. That is the basis of the two Supreme Court cases—both the Hughes Case and the Giboney Case. That was cited in the memorandum. The cases stand for the proposition that we have a right to conduct a lawful business. It is unlawful to interfere with that right by this picketing.

Now, in both of those cases—both the Giboney Case and the Hughes Case—the United States Supreme Court states— Also, in the Webb City and B & B Cash Store cases, state:

“The ultimate result may have been laudible and desirable. The means used, however, were illegal.”

Forcing customers, inducing customers to cease doing business with the plaintiffs, that is illegal—was

Transcript of Hearing

illegal. And that is what we are asking this Court to enjoin.

Mr. Leslie: And I think both Webb City and B & B directly are in point of that part. It is a sociological ultimate objective, but as the United States Supreme Court pointed out: "The immediate objective is to force customers to cease doing business [110] with us and interfering with our lawful business."

Mr. Gopman: Your Honor, let me say one thing.

He quoted two cases that went to the United Supreme Court—the Hughes Case and the Giboney Case. Both of these cases were based on a State statute; that is, just like our State statute with respect to labor relations—the Right to Work Law. Both of those cases were based on a similar statute, and the court said that the State had an announced policy; and that is when such a State has an announced policy—the right to picket and right of free speech given in the First Amendment, must step aside of that stated State policy.

We do not have a State policy here that you cannot picket against inferior and substandard conditions.

Mr. Muller: That is not correct, because in the Supreme Court case—the Hughes Case—the Supreme Court specifically pointed out: "The fact that a State's policy is expressed by the judicial organ of the State rather than by the legislature we have repeatedly ruled to be immaterial."

We have pointed out there is no law to [111] do this, and we have this in the Webb City case.

Mr. Gopman: We agree it can be stated either way; but it is a definite occurring State policy.

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Transcript of Hearing

[112] * * *

CLEVELAND TURNER, was called as a witness by the defendant and, being first duly sworn, was examined and testified as follows:

Direct Examination by Mr. Gopman:

Q. Please state your full name. A. Cleveland Turner.

[113] Q. What is your occupation? A. President of the National Longshoremen's Association, Local 1416, AFL-CIO, Miami, Florida.

The Court: Did you succeed Judge Henderson?

The Witness: Yes.

By Mr. Gopman:

Q. Mr. Turner, were you in charge of the picketing going on, which we have been discussing here? A. Yes.

Q. What type of picketing sign did you display in Miami? A. On the ship, we displayed a substandard wage sign on the ship loading cargo. In front of the International Terminal, we put the unsafe sign.

The Court: When did you put up those signs? At what time?

By Mr. Gopman:

Q. At what time did you cause the picket to carry the substandard wage sign? A. Whenever a ship docks. The ship docks and we put our sign up—the substandard wage sign.

Q. Specifically, what type of work were you interested in protesting the payment of substandard wages? **[114]** A. Loading of the ship, stowage and loading of automobiles, loading cargo and ship stowage.

Transcript of Hearing

Q. Were these performed by employees of the ship, to your knowledge? A. Part of it by employees of the ship and some of it by outside labor.

Mr. Gopman: I have no further questions.

Cross Examination by Mr. Leslie:

Q. The only question I have is what day was this we are talking about? Was this the past Monday? A. The past Monday they didn't load ship stowage.

Q. I mean, your sign. A. Last Monday, substandard wage sign.

Q. On this dock? A. No. Substandard wage sign on this dock—last Monday.

Q. Nothing on the Ariadne dock? A. The Adriadne—Friday a week ago, we had substandard wages.

Q. That is the one you have been enjoined—I mean, did you have a sign saying the Ariadne paid [115] substandard wages? A. Monday, I didn't; but I had on the ship Monday in Miami.

Q. On the ship? You mean— A. In front of the ship, on the dock.

Q. Is your union a trusteeship, by the way, sir? A. It is not.

Q. When was it—

Mr. Gopman: I object. It is not a trusteeship and—

Mr. Leslie: No further questions.

Mr. Gopman: Your Honor, I would like a stipulation from them that they are engaged in interstate commerce in sufficient amounts for the Board to take jurisdiction of each corporation.

Transcript of Hearing

Mr. Muller: I do not believe it is interstate.

Mr. Gopman: Foreign commerce in sufficient amounts over \$50,000 worth of purchases.

The Court: In the local market?

Mr. Muller: We are engaged in foreign commerce and our receipts from such foreign commerce [116] is in excess of \$50,000 annually.

Mr. Gopman: Okay.

Mr. Muller: The plaintiffs, that is.

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[118] . . .

The Court:

The motion to dismiss and quash on general grounds and Constitutional grounds and lack of jurisdiction and the supplemental motion to dismiss and quash on the basis of noncompliance with Florida Statute 613.01 and 613.02, are denied.

The Court finds there is no labor dispute involved here, and this Court has jurisdiction; that the acts of the union are in violation of Florida law; and that the picketing, the enjoining of the picketing would not be an enjoining of free speech as guaranteed by the Constitution of the United States; and, therefore, the union will be enjoined as prayed for in the Complaint; and the plaintiffs will be required to post a bond in the amount of \$5,000.

Mr. Muller: Would the Court find the [119] National Labor Relations Board has no jurisdiction in this matter?

The Court: The Court so found by saying there is no labor dispute involved; and it involves all the matters that are involved in this Court.

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Order

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT
IN AND FOR DADE COUNTY
No. 66C-5523 (Lee)

ARIADNE SHIPPING COMPANY LIMITED, a Liberian corporation
and EVANGELINE STEAMSHIP Co., S.A.
a Panamanian corporation,

Plaintiffs,

vs.

INTERNATIONAL LONGSHOREMEN'S ASSOCIATION,
LOCAL 1416 AFL-CIO,

Defendant.

ORDER

THIS CAUSE HAVING come on for hearing on the Plaintiff's Motion for Final Summary Judgment permanently enjoining the Defendant, the Court having heard argument of the respective parties, having examined the file and being otherwise fully advised in the premises, it is hereby

ORDERED, ADJUDGED and DECREED that Plaintiffs' Motion be and hereby is granted, the injunction being made permanent as more fully set forth in this Court's Order of May 26, 1966.

DONE AND ORDERED in Chambers, in Miami, Dade County, Florida, this 1 day of May, 1967.

THOMAS E. LEE, JR.
JUDGE, CIRCUIT COURT

Order

(Reported at 195 So.2d 238)

No. 66-982

District Court of Appeal of Florida

Third District

Feb. 21, 1967

INTERNATIONAL LONGSHOREMEN'S ASSOCIATION,
LOCAL 1416, AFL-CIO,

Appellant,

v.

ARIADNE SHIPPING COMPANY, Limited, a Liberian corporation,
and Evangeline Steamship Co., S. A., a Panamanian
corporation,

Appellees.

An Interlocutory Appeal from Circuit Court for Dade
County; Thomas E. Lee, Jr., Judge.

Kastenbaum, Mamber, Gopman, Epstein & Miles, Miami
Beach, for appellant.

Shutts & Bowen and Cotton, Howell, Miller, Schenerlein
& Bare, Miami, for appellees.

PER CURIAM.

Affirmed. See: Overstreet v. Frederick B. Cooper Co.,
Inc., Fla. 1961, 134 So.2d 225; McCulloch v. Sociedad Na-
cional de Marineros de Honduras, 372 U.S. 10, 83 S.Ct. 671,
9 L.Ed.2d 547; Incres Steamship Company, Ltd. v. Inter-
national Maritime Workers Union, 372 U.S. 24, 83 S.Ct.
611, 9 L.Ed.2d 557.

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Opinion of District Court of Appeal

(Reported at 215 So.2d 51)

IN THE DISTRICT COURT OF APPEAL OF FLORIDA

THIRD DISTRICT—JULY TERM, A.D. 1968

CASE No. 67-853

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING PETITION
AND, IF FILED, DISPOSED OF.

INTERNATIONAL LONGSHOREMEN'S ASSOCIATION,
LOCAL 1416, AFL-CIO,

Appellant,

vs.

ARIADNE SHIPPING COMPANY LIMITED,
a Liberian corporation,

Appellee.

Opinion filed October 29, 1968.

An Appeal from the Circuit Court for Dade County, Thomas
E. Lee, Jr., Judge.

Kastenbaum, Mamber, Gopman, Epstein & Miles,
for appellant.

Shutts & Bowen and Cotton Howell;
Muller, Schenerlein & Bare,
for appellee.

Before

CHARLES CARROLL, C.J. and PEARSON and HENDRY, JJ.
HENDRY, *Judge.*

Opinion of District Court of Appeal

This appeal was taken by the defendant below from a permanent injunction entered by the Circuit Court of Dade County.¹ The Appellant is a labor organization composed of persons who perform the labor of loading and unloading ships in Miami, Florida; the appellees are both engaged in the business of owning and operating cruise ships which transport persons from Port Everglades, and Miami to various points of interest in the Carribean and West Indies area. The ships are of foreign registry, owned by Liberian and Panamanian corporations. It must also be noted that none of the members in the appellant labor union are employed to perform any work in connection with the operation of the cruise ships involved herein; moreover, the

¹ "FURTHER ORDERED, ADJUDGED and DECREED that the National Labor Relations Board has no jurisdiction in this cause; that there is no labor dispute; and that this Court has jurisdiction in this case.

"FURTHER ORDERED, ADJUDGED and DECREED that the Defendant's actions are in violation of Florida law; that Plaintiffs are suffering and will continue to suffer irreparable injury unless enjoined; it is therefore

"ORDERED that pending final Hearing in this matter Defendant its officers, agents, allies, confederates and attorneys are enjoined and restrained from:

"1.—Picketing and patrolling, with signs and placards stating, alleging or inferring that Plaintiffs' vessels are unsafe;

"2.—Distributing literature, handbills or leaflets stating, alleging or inferring that Plaintiff's vessels are unsafe;

"3.—Picketing or patrolling with signs or placards indicating or inferring that a labor dispute exists between Defendant and Plaintiffs, by any statement, legend or language alleging Plaintiffs pay their employees substandard wages;

"4.—By any manner or by any means, including picketing or the distribution of handbills, inducing or attempting to induce customers and potential customers of Plaintiffs to cease doing business with Plaintiffs."

• • •

Opinion of District Court of Appeal

union itself does not represent any of the employees who work on the ships.

In May of 1966, the appellant established a picket line on the public docks of Miami, adjacent to the berths where the ships operated by the appellees were being loaded and unloaded. Some of the appellant's members carried picket signs and placards; others distributed handbills to passengers who were embarking or disembarking from the ships.²

² (Partial text of handbill:)

"WARNING!"

"IS YOU CRUISE SHIP A FLOATING DEATH TRAP?"

**"CAN A SUB-STANDARD FOREIGN FLAG CRUISE SHIP
TURN YOUR HOLIDAY INTO A HOLOCAUST?"**

"You, I am sure, are aware of the old adage, that experience is the best teacher. Yet, thousands of unsuspecting Americans continue to place their lives in jeopardy every day on cruises aboard foreign flag floating fire-traps. The sinking of the Yarmouth Castle was an 'experience' of which all Americans should take heed, as to the unsafe conditions existing today in foreign cruise ships. The Yarmouth Castle flew under a Panamanian flag and when it sank, 90 lives were lost.

"What can passengers of these so-called 'luxurious' cruise ships like the 'Yarmouth Castle' do to protect themselves? The answer is—know your ship. All ships sailing out of U. S. Ports are inspected by the U. S. Coast Guard. The U. S. Coast Guard can enforce U. S. Safety standards only on U. S. ships. Ships under foreign flags are subject to far less stringent regulations than are those under U.S. flags. There is a vast difference in the safety regulations which apply to ships of different countries—and the difference can be a matter of life or death. The strictest safety regulations of all are those of the United States. Yet, despite the fact that a majority of all the cruise ships that leave the ports of Miami and other United States ports, are American owned, they carry a foreign flag. Why is this? The answer is simple, in that in operating under a 'flag of convenience' offered by small foreign countries such as Liberia and Panama, whose safety standards are minimal, cruise lines then can ignore construction stan-

Opinion of District Court of Appeal

Thereafter, appellees instigated this action to enjoin the labor union from picketing and distributing the handbills in question. At the trial court hearing, testimony was taken which tended to show the following: (1) that the union was concerned with safety conditions aboard the two foreign vessels; and (2) that the union was attempting to inform the public that the American residents who were working on the cruise ships were being paid substandard wages. The trial court first determined that it had jurisdiction in the matter, and further, that such jurisdiction was not preempted by the National Labor Relations Board since no labor dispute existed. The court next decreed its order which temporarily restrained the appellants from their activities, setting forth the court's findings and the provisions of the injunction, *supra*, note 1. An interlocutory appeal was taken by the appellants which tested the question of whether or not the circuit court did, in fact, have jurisdiction over the dispute. We answered, in *International Longshoreman's Association, Local 1416, AFL-CIO v. Ariadne Shipping Company, Ltd.*, Fla.App.1967, 195 So.3d 238, that

dards, the equipment, the age limits, the regular inspection, overhaul requirements and other safety regulations which U. S. law sets for all our ships."

* * *

(Text of placards:)

"ARIADNE
REFUSE
To Maintain Adequate
Safety Conditions
FOR
PASSENGERS &
EMPLOYEES
International Longshoremen's
Association—Local 1416
Miami, Fla."

"BAHAMA STAR
REFUSE
To Maintain Adequate
Safety Conditions
FOR
PASSENGERS &
EMPLOYEES
International Longshoremen's
Association—Local 1416
Miami, Fla."

* * *

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it did have jurisdiction and could properly entertain the action. Thereafter, based on our affirmation of the jurisdictional issue, the circuit court changed the nature of its order to that of a permanent injunction.

The permanent injunction was specifically designed to counter the harmful effects of the appellant's false accusations regarding the unsafeness of the ships. Furthermore, the injunction also embodied the court's finding that no real dispute over wages really existed, and therefore, publicizing accusations as to that grievance was also forbidden. Thus, we affirm the order's first three provisions.

However, in framing a proper remedy for these actions, the trial court caused one section of the order to be too broad, i.e., Provision Four. We therefore find merit in appellant's contention that the precise wording of this particular provision does in fact put the union in jeopardy as to its rights and obligations for any future activity. A succinct statement which summarizes the Florida holding in cases of injunctions which are too broad appears in *Florida Peach Orchards, Inc. v. State*, Fla. App. 1966, 190 So.2d 796:

"An injunctive order should never be broader than is necessary to secure to the injured party, without injustice to the adversary, relief warranted by the circumstances of the particular case. *Moore v. City Dry Cleaners and Laundry*, Fla. 1949, 41 So.2d 865; and *Seaboard Rendering Co. v. Conlon*, 1942, 152 Fla. 723, 12 So.2d 882. An injunctive order should be adequately particularized, especially where some activities may be permissible and proper. *Moore v. City Dry Cleaners & Laundry*, *supra*. Such an order should be confined within reasonable limitations and phrased in such language

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that it can with definiteness be complied with, and one against whom the order is directed should not be left in doubt as to what he is required to do. *Pizio v. Babcock*, Fla. 1954, 76 So.2d 654." *Id.* at 798.

A final point raised by the appellant questions the correctness of the court's order which granted appellee's motion to dissolve the surety bond and discharge the surety for the injunction order. We dealt more fully with that question in *International Longshoremen's Ass'n., Local 1416, AFL-CIO v. Eastern Steamship Lines, Inc.*, Fla.App. 1968, 206 So.2d 473, but reiterate here that such order was in error since it purported to preempt all of the appellant's rights against the surety bond before an ultimate determination of the injunction's correctness had been made.

As to the rest of the permanent restraining order, we find no error. Therefore, the order appealed from is affirmed in part and reversed in part.

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**Order of Supreme Court of Florida Denying
Petition for Writ of Certiorari**

IN THE SUPREME COURT OF FLORIDA

JANUARY TERM, A. D. 1969—WEDNESDAY, MARCH 19, 1969

CASE No. 38,098

DISTRICT COURT OF APPEAL—THIRD DISTRICT

INTERNATIONAL LONGSHOREMEN'S ASSOCIATION,
LOCAL 1416, AFL-CIO,

Petitioner,

VS.

ARIADNE SHIPPING COMPANY, LIMITED, ETC., *et al.*,
Respondents.

This cause having heretofore been submitted to the Court on Petition for Writ of Certiorari, jurisdictional briefs and portions of the record deemed necessary to reflect jurisdiction under Florida Appellate Rule 4.5 c (6), and it appearing to the Court that it is without jurisdiction, it is ordered that the Petition for Writ of Certiorari be and the same is hereby denied.

ROBERTS, DREW, THORNAL, CARLTON and BOYD, JJ., concur.

ERVIN, C.J., and ADKINS, J., dissent.

A True Copy

*Order of Supreme Court of Florida Denying
Petition for Writ of Certiorari*

TEST:

/s/ **SID J. WHITE**

Sid J. White

Clerk Supreme Court

cc: Hon. W. P. Carter

Hon. E. B. Leatherman

**Messrs. Kastenbaum, Mamber, Gopman, Epstein &
Miles**

Messrs. Shutts & Bowen

• • • • •

Supreme Court of the United States

No. 231 , October Term, 19 69

International Longshoremen's Association,
Local 1416, AFL-CIO,

Petitioner,

v.

Ariadne Shipping Company, Limited, et al.

Order allowing certiorari. Filed .. October 13 , 19 69.

The petition herein for a writ of certiorari to the ~~Supreme Court~~ of the State of Florida, Third District Court of Appeal

is granted, and the case is placed on the summary calendar.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.